



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/404,245	09/22/1999	FRANK O. HARRIS	8675-5	8210

826 7590 11/27/2002

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT PAPER NUMBER

1771

DATE MAILED: 11/27/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/404,245

Applicant(s)

HARRIS ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 14 November 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

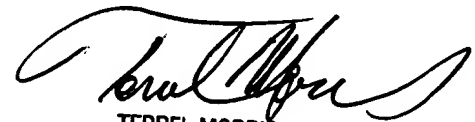
Claim(s) objected to: _____.

Claim(s) rejected: 17-25, 27, 28, 30-33, 48-59, 63-65 and 67-88.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The Applicant argues that the Makimura split multi-component fiber does not anticipate the claimed fiber bundle since it is produced by dissolving a third component and would not have the recited "plastically deformed" and "bulked" fiber. This is not persuasive since as shown by Figure 4, there is some crimp in the outer sheath fibers which qualify as "bulk" since the Applicant has not defined the amount of bulk required in the claims. Further, the Applicant has not limited the term "plastically bulked" to a drawn or stretched fiber which is the definition the Applicant relies on to argue that Makimura does not "plastically deform" the non-elastic fibers. Therefore, the non-elastic component is "plastically deformed" when it is spun into a fiber and thus those limitations are met by Makimura. The Applicant argues that Gillespie et al. fails to teach "bulk" and "plastic deformation" for similar reasons. However, until the claims explicitly limit the degree of "bulk" in the fiber or the term "plastic deformation" to a fiber which is drawn a certain amount or has some degree of orientation, these terms are interpreted in their broadest sense. Thus the rejections are maintained. Finally, the Applicant argues that the prior art does not teach a dyed fiber bundle which changes colors upon stretching. However, as set forth in the final rejection it is felt that stretching the fiber bundle would inherently change the color of the fiber to a lighted shade since the dye in the yarn is no longer as concentrated. The Applicant's arguments that the stretched fiber of the present invention would have the color of the non-elastomeric fibers prior to stretching and the color after stretching to the color of the core material is not commensurate in scope with the claims. The claims do not limit the color after stretching to anything, but a different color. While the Applicant argues it would be the color of the core material. The Applicant should limit the color change to the color of the core material to overcome this rejection.



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700